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SUBJECT: EL SALVADOR: CHILD LABOR REPORT 2008

REF: STATE 127448

¶1. (U) Summary: Pursuant to ref A, this cable provides information on the worst forms of child labor in El Salvador. As a country eligible for trade benefits under the Generalized System of Preferences (GSP), the Government of El Salvador (GOES) supports efforts to eliminate the worst forms of child labor. During 2008, the Government of El Salvador, in conjunction with various non-governmental organizations (NGOs), conducted seventeen programs specifically designed to reduce child labor. There were no new laws promulgated in 2008 relating to child labor. End Summary.

Laws and Regulations Proscribing
the Worst Forms of Child Labor

¶2. (U) The Salvadoran Constitution prohibits child labor under the age of 14. It also prohibits child labor for older children while they are still receiving compulsory education through the ninth grade. Minors, age 14 or older, may receive special permission from the Ministry of Labor (MOL) to work, but only where such employment is indispensable to the sustenance of the minor and his or her family. However, according to the Labor Code, children aged 12 to 14 can be authorized to perform light work, as long as it does not harm their health and development or interfere with their education. Children under 16 years of age are prohibited from working more than 7 hours per day, and 34 hours per week. Children under the age of 18 are prohibited from working at night.

¶3. (U) El Salvador defines the worst forms of child labor or hazardous work in the same fashion the ILO defines those terms. Forced or compulsory labor is prohibited by the Constitution, except in cases of public calamity and other instances specified by the law. All forms of slavery or practices similar to slavery are forbidden under a general provision of El Salvador's Constitution, as well as the Criminal Code. The sale and trafficking of children, debt bondage, and serfdom are specifically penalized in the Criminal Code. Criminal penalties for trafficking range from 4 to 8 years of imprisonment, and increase by one-third if the victim is under the age of 18 years.

¶4. (U) Military recruitment of children is not permitted. However, voluntary service can begin at age 16.

¶5. (U) The use, procurement, or offering of a child for prostitution, for the production of pornography, or for pornographic performances is penalized in the Constitution. Although the Criminal Code does not criminalize prostitution per se, it penalizes the inducement, facilitation, or promotion of prostitution of a person younger than 18 years old. The Penal Code considers the commercial sexual exploitation of children, trafficking of children, and child

pornography forms of organized crime, and provides harsher penalties for such crimes. The law that regulates drug-related activities penalizes the use of children for illicit activities.

¶6. (U) The Labor Code prohibits types of work that will likely harm the safety or morals of children. In 1999, the Government of El Salvador submitted to the ILO a document identifying hazardous forms of work prohibited for minors under Convention 182 and Convention 138. There were no new laws promulgated in 2008 relating to child labor. The information provided in ref B, pertaining to the goods produced by child labor, is still accurate.

Regulations for Implementation and Enforcement of
Proscriptions against the Worst Forms of Child Labor

¶7. (U) Enforcement of child labor law is the responsibility of the Ministry of Labor, but labor inspectors usually tend to focus on the formal sector, where child labor is less frequent, and as a result, few complaints are presented. The 2006-2010 National Plan to Eradicate the Worst Forms of Child Labor places the Ministry of Labor in charge of reviewing, updating, and modernizing the legal framework related to child labor, as well as increasing legal oversight and labor inspections to prevent and eradicate hazardous job conditions.

¶8. (U) The National Civilian Police (PNC), the Immigration Office, and the Office of the Attorney General (FGR) are the government agencies responsible for enforcing trafficking laws. Administrative complaints presented before the Ministry of Labor, when they refer to child labor violations, are different from criminal activities such as trafficking, offering a child for pornographic or prostitution services, and others. However, if the child labor violation is considered a crime, the Attorney General's Office, in conjunction with the PNC, is in charge of enforcing child labor laws.

¶9. (U) In general, the legal remedies for trafficking are adequate to punish violations, but likely provide little deterrence, due to economic, cultural, and social conditions. The legal remedies for child labor are rarely enforced, providing little punishment or deterrence.

¶10. (U) The Ministry of Labor provided no report of child labor complaints. However, child labor is culturally acceptable in El Salvador, and historically, there have been few complaints. The Ministry of Labor has 159 labor inspectors conducting inspection programs, but none work specifically on child labor issues. However there is evidence that children are used in the production of coffee, sugar, fish, mollusks, and fireworks.

¶11. (U) During the year, the Ministry of Labor (MOL) reported that it conducted 26,865 inspections in the commerce and service sectors, where child labor is rare, and 1,449 inspections in agriculture, where child labor is common. It did not report on the number of children found. (Comment: These numbers are not supported by statistics from other sources or post's observations. End Comment.)

Social Programs to Prevent and Withdraw Children
from the Worst Forms of Child Labor

¶12. (U) The ILO and other non-governmental organizations, with the support of the Ministry of Labor, are currently implementing the third stage of the National Plan for the Eradication of the Worst Forms of Child Labor. The MOL did not report a budget for these activities.

¶13. (U) In 2008, the GOES, in conjunction with six NGOs, conducted seventeen programs designed to reduce child labor.

In 2008, the GOES and Spanish NGO Intervida, expected to withdraw 520 children from child labor activities in the sugar and agricultural fields in the departments of San Vicente, La Paz, and Usulután. The Salvadoran Sugar Foundation (FUNAZUCAR) is conducting programs to combat child labor in San Miguel and Usulután, and expected to withdraw 394 children from the harvesting and production of sugar cane. The Salvadoran Association for Rural Health (ASAPROSAR) conducted a program intended to withdraw 527 children who work in the municipal market of Sonsonate. (Note: Child labor is prevalent in the municipal markets and continues to be ignored by the GOES.)

¶14. (U) The Council for the Development of the Communities of Morazan and San Miguel (PADECOMS) expected to withdraw 482 children involved in fishing activities in La Unión in 2008. The Salvadoran Foundation for Health and Human Development (FUSAL), conducted three programs to remove over 2800 children involved in fishing and sugar cane production. The Business-Women Organization (OEF) expects to remove 200 children involved in hazardous activities in the sugar cane industry in San Vicente and Cabanas Departments.

Comprehensive Policy Aimed at the Elimination
of the Worst Forms of Child Labor

¶15. (U) In 2006, the government launched its first National Plan for the Elimination of the Worst Forms of Child Labor. The Ministries of Labor, Education, Health, Agriculture, Foreign Affairs, Tourism, Governance, Economy, and the National Secretariat for the Family, the National Secretariat for Youth, the National Institute for the Development of Children and Adolescents, in conjunction with the Small and Medium Enterprises Committee, the National Superior Labor Council, the National Round Table Against Sexual Commercial Exploitation, and the National Committee for the Elimination of the Worst Forms of Child Labor, joined efforts with the ILO/IPEC International Program on the Elimination of Child Labor to launch a four-year national plan to eliminate the worst forms of child labor. The government reports that it is currently in Phase III of the National Plan.

¶16. (U) On June 25, 2008 the Legislative Assembly unanimously amended article 56 of the Salvadoran constitution to declare education free and compulsory through high school. However, this amendment must be ratified by the next Legislative Assembly (2009-2012).

Country's Continual Progress Toward
Eliminating the Worst Forms of Child Labor

¶17. (U) According to the 2007 Multiple Household Survey conducted by the Ministry of Economy, El Salvador has reduced the percentage of working children from 10.2 in 2003 to 5.9 in 2007. (Comment: As child labor is often considered socially acceptable, the reliability of these numbers is uncertain.)

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